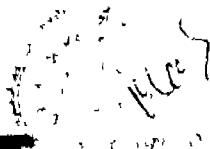


भारत का राजपत्र
The Gazette of India



असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्रधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० १९] नई विल्सनी, शुक्रवार, मई १३, १९९४ /वैशाख २३, १९१६
No. 19] NEW DELHI, FRI DAY, MAY 13, 1994/VAISAKHA 23, 1916

इस भाग में चिन्ह पृष्ठ संख्या दो जाती है जिससे कि यह अलग संकलन के
रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 13th May,
1994:—

I

BILL No. XVI OF 1994

A Bill to provide for the reservation of agro-based industries for the co-operative of unemployed youth throughout the country to reduce unemployment and to provide financial assistance to such co-operatives by the Central and the State Governments for setting up agro-based industries and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth year of the Republic
of India as follows:—

1. (1) This Act may be called the Reservation of Agro-based Industries for the Co-operatives of Unemployed Youth Act, 1994.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short
title,
extent
and com-
mence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "agro-based industries" include all the small scale industries based on agricultural produce and their raw material such as *Khandsari* handmade papers, oilseeds based solvent extraction units sericulture, handicrafts, potteries, brick kiln, Units manufacturing Jams, Fruit Juice Concentrates *Papads*, *Agarbattis*, clay pot making, soap manufacturing, flour mills, oil mills, pulses mills and such other industries declared to be agro-based industries by the Central Government, by notification in the Official Gazette, from time to time;

(b) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government or the Union Territory administration, as the case may be;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "Youth Co-operatives" means Co-operative Societies formed by unemployed youth and registered under any of the Co-operative laws for the time being in force.

Reservation of Agro-based industries for the Youth Co-operatives.

3. Notwithstanding anything contained in any other law for the time being in force, the setting up of Agro-based Industries shall be exclusively reserved by the appropriate Government by notification in the Official Gazette, for the youth co-operatives which are either existing or may be formed in course of time in its territorial jurisdiction.

Financial Assistance to Youth Co-operatives.

4. (1) The Central and the State Governments shall extend financial assistance, in such manner and in the proportion, to be determined by the Central Government, to the Youth Co-operatives for setting up of Agro-based industries.

(2) For the purposes of sub-section (1), it shall be the duty of the Central Government to provide from time to time, after due appropriation made by Parliament, by law, adequate funds, for financial assistance to youth co-operatives.

Power to make rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are millions of unemployed youth in the rural parts in the country. Due to the decrease in the agricultural land caused by divisions of such land among the members of families, generation after generation, the youth are unable to engage themselves on the cultivation of land. Due to the social causes they cannot compete in the examination for jobs with the urban youth. Individually they cannot start their own ventures to create self-employment due to lack of finances.

On the other hand human resource and raw materials based on agriculture and available in abundance, are not properly utilised in rural areas. The big and medium industries exploit the producers and force them to sell their raw material at throwaway prices. This malady can be remedied if the rural youth is encouraged to form co-operatives societies and they are given the opportunity to set up agro-based industries in rural areas. It will not only solve the draconian problem of unemployment in the rural areas but will also reduce the ever increasing migration of the people from rural areas to urban areas particularly in search of employment.

But in the present age of stiff competition it is not possible to achieve the above objects if we do not reserve agro-based industries for the youth co-operatives. There is no doubt that we are committed to liberalised industrial development but at the same time we cannot keep our eyes closed from the growing unemployment among the rural youth. The liberalised policy may remain confined to big and medium industries in the country and Government must reserve the agro-based small industries for the Youth Co-operatives. Then only we can achieve the goals of welfare state.

Hence this Bill.

SURESH PACHOURI.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the financial assistance to Youth co-operatives by the Central and the State Governments and also provides that the Central Government shall provide adequate funds for this purpose. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India to the tune of one thousand crores rupees per annum as recurring expenditure. No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill which will relate to matters of detail, only.

The delegation of legislative power is of normal character.

II

BILL NO. XVII OF 1994

A Bill to provide for the auditing of accounts of banking companies by the Comptroller and Auditor-General of India and for matters connected therewith.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Banking Companies (Audit of Accounts by the Comptroller and Auditor-General of India) Act, 1994.

(2) It shall come into force at once.

2. In this Act unless the context otherwise requires,—

10 of 1949.
 (a) “banking company” means a company within the meaning of section 5 of the Banking Regulation Act, 1949;

Short title and commencement.

Definitions.

(b) “Comptroller and Auditor-General of India” means the Comptroller and Auditor-General of India appointed under article 148 of the Constitution of India;

(c) “prescribed” means prescribed by rules made under this Act;

10 of 1949.
 5 of 1970.

(d) words and expressions used but not defined in this Act and defined in the Banking Regulation Act, 1949 and the Banking Companies (Acquisition and transfer of Undertakings) Act, 1970 shall have the meanings respectively assigned to them in these Acts.

3. Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the Comptroller and Auditor-General of India to audit the accounts of the banking companies in such manner as may be prescribed.

The
Comptrol-
ler and
Auditor-
General
of India
to audit
accounts
of the
banking
companies.

4. Notwithstanding anything contained in any other law for the time being in force, every banking company shall furnish its annual accounts to the Comptroller and Auditor-General of India for the purposes of auditing in such manner and in such form as may be prescribed.

Banking
Companies
to ful-
fill ac-
counts
for
auditing.
Audit
Report

5. The audit reports of the Comptroller and Auditor-General of India relating to the accounts of the banking companies shall be submitted to the President who shall cause them to be laid before each House of Parliament.

Over-
riding
ef ect
of the
Act
Power
to make
rules

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

People from all sections of the society deposit their hard earned money in banks in various accounts, schemes etc. in the hope that the money will remain safe with the banks and they will get good interest also on their money. But there is no centralised authority for the proper auditing of the accounts of the banking companies. As such every banknig company has its own system of auditing its accounts which is not effective and at times leads to manipulation and corruption. Recent security scam which rocked the nation wherein banking companies were defrauded of thousands of crores of rupees by some share brokers and others with the connivance of the insiders made the mockery of the self auditing system in banks. All this can be prevented if the auditing of banking companies is handed over to the Constitutional authority of the Comptroller and Auditor-General of India in view of the powers given under article 149 of the Constitution of India to the Parliament in this regard.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that Comptroller and Auditor-General of India shall audit the accounts of all the banking companies. As a result of it more manpower has to be provided to the Comptroller and Auditor-General to cope with this extra work. Though it is not possible to precisely estimate the expenditure but it is estimated that a recurring expenditure of rupees five crores per annum will be involved from the Consolidated Fund of India.

Non recurring expenditure of rupees fifty lakhs would also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to make rules for the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character

III

BILL No. XXX of 1994

A Bill further to amend the Hindu Marriage Act, 1955.

Be it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Hindu Marriage (Amendment) Act, 1994.

Short title
and com-
mencement.

(2) It shall come into force at once.

25 of 1955.

2. In section 5 of the Hindu Marriage Act, 1955 (hereinafter referred to as the principal Act)

Amendment
of section
5.

(i) in para (c) of clause (ii) for the word "epilepsy" the words "suffering from incurable diseases like AIDS, cancer etc." shall be substituted.

(ii) in clause (iii) for the words "twentyone years" and "eighteen years", the words "twenty-five years" and "twenty-one years" respectively shall be substituted.

3. In section 7 of the principal Act, the following words shall be inserted at the end, namely:—

Amendment
of section
7.

"in the presence and wilful consent of the parents of the bride and bridegroom and the person performing such rite or ceremony."

4. In section 12 of the principal Act, after para (l) of clause (b) of sub-section (2) of the following shall be inserted, namely:—

Amendment
of section
12.

"(ia) that the petitioner has definite proof that premarital intercourse with the consent of the petitioner had not taken place after the fixation of the marriage till the solemnization of the marriage and the petitioner has medical proof of the said ground."

STATEMENTS OF OBJECTS AND REASONS

There are some lacunae in the Hindu Marriage Act, 1955 which require to be rectified. For instance in Section 5 of the Act one of the conditions prescribed for solemnization of a marriage is that neither party to the marriage should be suffering from epilepsy, although epilepsy, is a curable disease. It has been found that in many cases this disease gets cured automatically after the marriage. However dreaded diseases like AIDS, Cancer etc. have been left out from the purview of section 5. Though AIDS is a recent phenomenon but it is better if this is also added to this section. Similarly the minimum age of the bride for marriage is eighteen years and that of the bridegroom is twenty one years. But in order to contain the population explosion it is one of the suggestions that marriageable age should be raised, this being beneficial for the health of the couple also. Hence it has been proposed to raise the marriageable age of bridegroom to twenty-five years and that of the bride to twenty-one years. Section 7 declares that the marriage where *saptapadi* is included as rites is complete when the seventh step is taken. But sometimes *saptapadi* can be performed even by force. So it must be enjoined that this ritual should be performed in the presence of and with the wilful consent of the parents of the bride and bridegroom. Similarly there are many instances when the would be groom takes full liberty of the engagement or betrothal ceremony or finalisation of marriage proposal and when the would be bride conceives he declares her as characterless and deserts her. Therefore, it must be made necessary for the husband to prove medically that his wife has not conceived from him. These lacunae have to be removed at the earliest opportunity.

Hence this Bill

SURESH PACHOURI

IV

BILL NO. XV OF 1994

A Bill to provide for the maintenance and rehabilitation by the State, of persons suffering from infirmity due to old age, ailment, physical deformity or mental imbalance and who are destitutes and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows.—

1. (1) This Act may be called the Infirm and Destitute Persons (Maintenance and Rehabilitation) Act, 1994.

Short title,
extent and
comment-

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the State Government and in all other cases the Central Government;

(b) "destitute" means a person who lives uncared for, without resources and remains in great need of food and shelter and maintains himself on begging or charity of others and lives generally on foot-paths or at any other public place not meant for residence;

(c) "family" includes parents, spouse, unmarried sons and daughters, dependent brothers and unmarried sisters of a person;

(d) "infirm" means any person stricken with infirmity owing to old age or physical deformity or ailment or mental imbalance;

(e) "poor" means a person whose daily earnings on an average do not exceed;

(i) if living alone, ten rupees;

(ii) If living with wife who is not earning fifteen rupees;

(iii) If living with family, per head income of the family members is less than four rupees;

(f) "prescribed" means prescribed by rules made under this Act.

Establish-
ment of
a Depart-
ment-for
the Wel-
fare of
Infirm,
destitutes
and
poor.

3. The appropriate Government shall, as soon as may be, establish a separate Department in the Government to look after the infirm, destitute and the poor and it shall be the responsibility of that Department to prepare plans for their maintenance and rehabilitation.

Establish-
ment of
National,
State and
Union
Territory
Infirm
and Des-
titute
Rehabili-
tation
Boards.

4. (1) The appropriate Government shall establish as soon as may be, a Board known as "the National Infirm and Destitute Rehabilitation Board" (hereinafter called "National Board") and the State or Union Territory Infirm and Destitute Rehabilitation Boards hereinafter referred to as the "State Board" or "Union Territory Board" as the case may be) with such Members, Chairman, Vice-Chairman and other office bearers as the appropriate Government may, by notification in the Official Gazette, prescribe from time to time.

(2) It shall be the duty of the National Board to enunciate the national policy in consultation with the State Boards and Union Territory Boards in regard to the infirm, destitute and poor and suggest ways and means for their ultimate rehabilitation in life.

Duty to
carry out
the
policy

5. (1) It shall be the duty of the Department of the Central Government established under section 3 to carry out the policy formulated by the National Board into effect with the help of the State Governments and Union Territory Administrations by providing funds and materials from time to time after due appropriation made by Parliament in this regard.

(2) It shall be the duty of every Department of the State Governments and Union Territory Administrations established under section 3 to carry out the policy formulated by National Board and feed back the experience gained during the process of implementation of the policy and to give suggestions for improvement of the policy.

Establish-
ment of
shelters or
"Awaas".

6. The appropriate Government shall establish and run such number of homes, as may be necessary, in its jurisdiction and each home shall be known as "Awaas".

7. After the establishment of the Awaas under Section 6 all infirm and destitute persons and any person found begging, not being an able bodied adult or residing on footpath or in public place, as soon as may be, shall be shifted to the Awaas.

Removal
of persons
to shelters
or Awaas.

8. With effect from such date or dates as the appropriate Government may prescribe, by notification in the Official Gazette, begging or residing on footpaths and in public places not meant for residence shall be prohibited.

Prohibi-
tion of
begging
and resi-
dence on
footpaths.

9. In all Awaas, every inhabitant shall be provided, free of cost basic facilities such as,—

Facilities
to be
provided
in Awaas.

(a) food, clothing and lodging;

(b) medical care;

(c) such education, literal or vocal, as may appear suitable;

(d) such vocational training that is suitable for him or her to establish in a fruitful pursuit in future.

10. Every poor person shall be supplied essential commodities at subsidised rates in such quantity and at such rates as may be prescribed in consultation with the National Board.

Supply of
essential
commodi-
ties at
subsidised
rates to
the poor.

11. The appropriate Government shall run rehabilitation centres for proper rehabilitation of infirm, destitute and poor through proper and adequate training in some trade or vocation and extend all help in cash and kind for this purpose.

Rehabili-
tation
Centre.

12. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Savings.

13. The Central Government, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make
rules.

STATEMENT OF OBJECTS AND REASONS

There are millions of infirm, destitute and poor people in the country who are neglected by society. They live uncared for, stricken with infirmity due to old age, physical deformity, ailment or mental imbalance. They can be found in every age groups and in every part of the country. They live on footpaths and other public places not meant for residence and in slums. Many of them are born on the footpath, spend their whole life on the footpath and die on the footpath, sometimes unnoticed and many a time unsung. Many of them die due to sunstroke or severe cold and nobody bothers for them.

Ours is a welfare State, therefore, the country owes much to itself for humane treatment to these infirm, destitute and poor. Proper rehabilitation programmes if extended to these unfortunate persons, who are victims of circumstances, will help them to be in the mainstream of the society and they too can be equally respectable and responsible citizens. Vocational training, a helping hand, a little sympathy will go a long way to rehabilitate them in life. This object can be achieved only when such unfortunates are housed in protective environments where they can get something to eat and wear as well as medical care. For this there should be separate department at the Central and State levels exclusively to deal with the welfare of such people. There must also be other agency such as an Authority to formulate and implement welfare programmes for such people. This is the need of the hour and such unfortunate people deserve it from society.

Hence this Bill.

S. S. AHLUWALIA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a separate Department for the welfare of Infirm and destitute. Clause 4 provides for establishment of Boards. Clause 6 provides for shelters. The Bill if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores per annum is likely to be incurred as recurring expenditure.

A non recurring expenditure of about rupees one hundred crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules which will relate to matters of details only. The delegation of legislative power is of normal character.

V

BILL NO. XII OF 1994

A Bill to provide for the compulsory maintenance of food and potable water supplies for human consumption and fodder for the livestock of the farmers in drought affected areas by the Union Government with the co-operation of the Government of the concerned State and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maintenance of Food, potable water and Fodder Supplies in Drought Affected Areas Act, 1994.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "drought affected area" means any area situated in any part of the country which has got below normal rainfall in any season of

a calendar year and which in the opinion of the Central Government has been affected by drought and declared, by notification in the official gazette, to be a drought affected area for such period as may be specified in the notification;

(b) "food" includes cereals such as wheat, maize, barley etc. rice, pulses and edible oils and fuel for cooking;

(c) "fodder" includes the dry and green fodder generally fed to the livestock by the farmers and others;

(d) "Government" includes both the Central and State Government.

(e) "prescribed" means prescribed by rules made under this Act.

Compulsory
main-
tenance
of food
supplies in
drought
affected
areas

3. The Central Government shall, with the assistance of the State Government in whose jurisdiction the drought affected area falls, maintain uninterrupted food supplies in such area for the inhabitants in such manner and for such time as may be prescribed.

Gov-
ern-
ment
to maintain
supply
of potable
water in
drought
affected
areas.

4. The Government shall maintain adequate supply of potable water through tankers or through other means as it may consider appropriate in the drought affected area for such period as may be prescribed.

Compu-
lso-
ry main-
tenance
of fodder
supply in
drought
affected
areas.

5. The Government shall maintain adequate supplies of fodder in a drought affected area by procuring fodder from other States in such manner and for such period as may be prescribed.

Funds to
be provided
by
the Central
Govern-
ment.

6. The Central Government shall provide, from time to time, after due appropriation made by parliament by law, adequate funds for carrying out the purposes of this Act.

Savings.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make
rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Large number of areas in various parts of the country particularly in the States of Bihar, Madhya Pradesh, Orissa, Andhra Pradesh etc. are being frequently affected by unprecedented drought and playing havoc in such areas. The Palamu division in Bihar and Kalahandi in Orissa have become synonymous with drought. It has been observed that during the drought period the inhabitants do not have food to eat and water to drink for their survival resulting in their exodus. In many areas starvation deaths also occur. The worst sufferers in such time are the mute livestock. People leave them stray to fend for themselves and without fodder and water they ultimately die. The Governments at the Centre and State provide some sort of relief to the people of such areas but the mute animals remain uncared for. It is, therefore, necessary that the supply of food and potable water and also the fodder be maintained on priority and it should remain uninterrupted so that the people do not leave such places and the livestock too get its fodder and water for its survival.

Hence this Bill.

S S. AHLUWALIA.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that the Central Government shall provide adequate funds for the implementation of the Bill. The Bill, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. But at this stage it is not possible to estimate the exact amount likely to be involved. However, it is estimated that a sum of rupees ten crores is likely to be involved as recurring expenditure per annum.

It may also involve a non recurring expenditure of rupees fifty lakhs from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL NO. VII OF 1994

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1994.

(2) It shall come into force at once.

2. In article 124 of the Constitution, to clause (1) the following proviso shall be added, namely:—

“Provided that the President shall, within a period of two years from the commencement of the Constitution (Amendment) Act, 1994, set up as many Benches of the Supreme Court and at such places in the country, as the President deem necessary for providing timely justice to the citizens and for reducing the arrears of cases pending before that Court.”

3. To article 214 of the Constitution the following proviso shall be added at the end, namely:—

“Provided that the President shall, within a period of two years from the commencement of the Constitution (Amendment) Act, 1994 set up benches and additional benches of High Court in each State keeping in view the area and population of each State and the cases pending in the High Court of such State.”

Short title and comment-

Amend-
ment of
article
124.

Amend-
ment of
article
214.

STATEMENT OF OBJECTS AND REASONS

Ours is the largest democracy in the world and wedded to the ideals of a welfare State. In the Preamble to the Constitution the people of the country have resolved to secure to all citizens justice, social, economic and political. Thus the Constitution and various other laws protect the citizen's fundamental and other rights and also the right to seek legal redress to achieve the goals of a welfare State. However despite the laudable goals set out in the Constitution the arrears of cases pending before the Supreme Court and various High Courts are enormous.

Similar is the case with the lower courts. Millions of cases are lingering for years together therein. The citizens have to wait for years together, in some cases decades to get justice. It is said that "Justice delayed is justice denied". If this is true then in our country Justice is denied in almost every case because delayed Justice is routine in every case. Thus the arrear of cases in the courts and time consuming litigation is all set to defeat the ideals of welfare State in our country.

In such a grave situation in the judicial front and considering the vastness of the country, the poverty of its people, the high cost of litigation it is the need of the hour to consider measures to provide easy, quick, cheap and timely justice to the people. This is all the more important with regard to the people living in far flung rural areas who are away from the national and State capitals where Supreme Court and High Courts are located. This factor obviously denies the poor man to seek legal redress particularly in the Supreme Court and High Courts which involves considerable expenses and inconvenience. The agonies of a litigant travelling right from Madras, Thiruananthapuram, Goa, Pondicherry or North Eastern part of the country to New Delhi to attend a case at Supreme Court can be imagined when he finds that his case only has been adjourned for the next date. He does not get justice even after travelling for days together spending lot of money, wasting lot of time, incurring losses if he runs a business establishment and loses his crops if he is a farmer even if he is affluent one. In some cases the litigation is prolonged to generations together.

Thus to mitigate the sufferings of poor litigant citizens it is felt that benches of the Supreme Court should be established at various places in the country particularly in the Eastern, North Eastern, Western and Southern parts of the country. Similarly more benches of High Courts should be established at easily accessible places. Such a step will certainly reduce the ever increasing number of pending cases in the Supreme Court and High Courts. It would also break the monopoly of expensive advocates of the Supreme Court and High Courts. It will be a step in the right direction to provide easy, quick, cheap and timely justice to the people and to achieve the goals of Welfare State.

Hence this Bill.

S.S. AHLUWALIA,

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for setting up benches of Supreme Court. Clause 3 provides for setting up benches of High Courts in the States. In that case more judges have to be appointed which will incur expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees two crores is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of rupees three crores is also likely to be involved.

VII

BILL No. XXII of 1994

A Bill to provide for banning of ragging in educational institutions and for matters connected therewith.

Be it enacted by Parliament in the Forty Year of the Republic of India as follows.—

Short title
and com-
menc-
ment.

1. (1) This Act may be called the Prohibition of Ragging Act, 1994.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Deini-
tions

2. In this Act, unless the context otherwise requires,—

(a) "educational institutions" includes any school, college, institute, university, whether established by Government or by any citizen or body of citizens, and whether in receipt of aid from Government or not, recognized by the Central or State Government for the award of a certificate, diploma or degree in any course of study, education or training;

(b) "ragging" includes any act, by action, word or gesture, to irritate annoy or harass, playfully or maliciously to any student in an educational institution causing thereby physical or mental injury.

3. Ragging of in any manner in every educational institution is hereby prohibited.

Prohibi-
tion of
Ragging

4. Whoever commits the offence of ragging under this Act shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

5. Any student convicted under this Act shall be debarred from continuing his studies in any educational institution for a period of three years.

Bar to
continuing
studies in
certain
cases.

6. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Savings
of other
laws.

STATEMENT OF OBJECTS AND REASONS

Ragging in colleges, universities and other educational institutions is now an evil practice prevalent throughout the country. Many incidents of ragging of freshers take place every year. In the name of ragging barbarous acts are being committed by the senior students on their juniors. It is the need of the hour to see that the ragging is banned through legislation.

Hence this Bill.

GOVINDRAO ADIK.

VIII

BILL No. XXIII of 1994

A Bill further to amend the Indian Penal Code.

Be it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1994.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

2. In the Indian Penal Code 1860, after Chapter XV the following Chapter shall be inserted namely:—

Insertion of new Chapter XVA in the Act 45 of 1860.

**"CHAPTER XVA
OF OFFENCES RELATING TO RAGGING IN EDUCATIONAL
INSTITUTIONS"**

298A. Whoever, in an educational institution, does an act, by words, action or gesture, to annoy, irritate or harass, playfully or maliciously, any student in such educational institution causing thereby physical or mental harm to such student commits the offence of ragging.

Ragging in educational institutions.

298B. Whoever commits ragging in any educational institution shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both".

Punishment for ragging.

STATEMENT OF OBJECTS AND REASONS

It has been our experience in the recent past that the incidents of ragging in our schools and colleges have not only increased but have assumed alarming proportions. We frequently come across newspaper reports containing details of physical and mental harassment/torture inflicted upon young students by their seniors in the name of ragging. At times the students are driven to suicide as the harassment/torture in the garb of ragging becomes unbearable for them.

It is accordingly felt that in order to stop this unhealthy practice in our educational institutions a separate provision in the IPC providing stringent penal provisions for the violators is the need of the hour as all other efforts to put an end to this evil practice have failed. This measure will also help in checking rowdy elements in our educational institutions and making the academic atmosphere more peaceful.

Hence this bill.

GOVINDRAO ADIK

IX

BILL No. XXXII OF 1994

A Bill to provide for the preservation of old historical buildings which were or are the residences or place of work of historical personalities such as freedom fighters, international famed writers, artistes etc. in any part of the country and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Historical Buildings Preservation Act, 1994.

Short title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) "advisory Committee" means Advisory Committee appointed under section 4;

Defini-
tions.

(b) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(c) "commissioner" includes any officer authorised by the appropriate Government to perform the duties of a Commissioner under this Act;

(d) "historical building" includes a dwelling house or building which was or is the residence or workplace of a celebrated freedom fighter, social workers, internationally famed writer, artiste or sports person in any part of the country;

(e) "maintain" and "maintenance" include the fencing, covering in, repairing, restoring and cleansing of a protected building and the doing of any act which may be necessary for the purpose of maintaining a protected building;

(f) "land" includes a revenue-free estate, a revenue paying estate and permanent transferable tenure whether such estate or tenure be subject to incumbrances or not;

(g) "owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any manager or trustee exercising powers of management over an historical building and the successor in title of any such owner and the successor in office of any such manager or trustee;

(h) "prescribed" means prescribed by rules made under this Act.

Protected historical buildings.

3. Notwithstanding anything contained in any other law for the time being in force the appropriate Government may, by notification in the Official Gazette, declare a historical building to be a protected building within the meaning of this Act.

Advisory Committees.

4. (1) The Central Government shall, by notification in the Official Gazette, appoint an Advisory Committee consisting of not more than ten eminent persons as nominated jointly by the Chairman of the Council of States and the Speaker of House of the people, from time to time, to declare any structure to be a historical building under this Act in such manner as may be prescribed.

(2) The Chairman and other Members of the Advisory Board shall be appointed in such manner as may be prescribed.

Acquisition of rights of a historical building.

5. (1) The Commissioner with the sanction of the appropriate Government may purchase a protected historical building.

(2) The Commissioner with the like sanction may accept a gift or bequest of any protected historical building.

(3) The owner of any protected historical building may, by written instrument, constitute the Commissioner the guardian of the historical building, and the Commissioner may with the sanction of the appropriate Government accept such guardianship.

(4) When the Commissioner has accepted the guardianship of a historical building under sub-section (3) the owner of such building shall except as expressly provided in this Act, have the same estate, right, title and interest in and to the building as if the Commissioner had not been constituted guardian thereof.

(5) Where a protected historical building is without an owner the Commissioner shall assume the guardianship of the building.

6. The Commissioner may, with the previous sanction of the appropriate Government, propose to the owner to enter into an agreement with the appropriate Government for the preservation of any protected historical building in his jurisdiction in such manner as may be prescribed.

Preserva-
tion of
historical
building by
agreement.

7. If the Commissioner apprehends that the owners or occupier of a historical building intends to destroy, remove, alter, deface or imperil the building or to build on or near the site thereof in contravention of the term of an agreement the Commissioner may make an order prohibiting any such contravention of the agreement.

Enfroce-
ment of
agreement.

8. If the appropriate Government apprehends that a protected historical building is in danger of being destroyed, injured or allowed to fall into decay the appropriate Government may acquire it for public purposes in the manner as may be prescribed.

Compul-
sory
purchase
of
historical
building.

9. Any person who destroys, removes, injures, alters, defaces or imperils a protected historical building shall be punishable with imprisonment which may extend to three years or with fine which may extend one lakh rupees or with both.

Penalties.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make
rules.

STATEMENT OF OBJECTS AND REASONS

Inspite of the unfortunate existence of colossal poverty, India is a rich country culturally. There are many great exponents of various human faculties in the field of literature, music, dance and similar artistic pursuits.

The great anti-imperialist freedom movement of our country brought to life remarkable human qualities of struggle and sacrifice with men of inimitable integrity and character emerging out of that historical epoch.

Today the country requires a national reawakening recaptulating the lofty ideals of the freedom struggle and also by promoting our rich cultural heritage. Remembering and reevaluating the great contribution of eminent citizens of our country past and present should form part of this gigantic task.

In the above background and with the experience of unscrupulous builders encroaching upon all possible areas and taking possession of old buildings of national historical and architectural importance, where great sons of India lived or are living, a bill to safeguard such places and buildings is very pertinent and urgent.

Hence this Bill.

M. A. BABY.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of an advisory Committee to advise the Central Government in the matter of declaring a structure to be a historical building. Clause 5(1) provides for purchase of a protected historical building. Therefore, the Bill, if enacted, would involve expenditure from the Consolidated Fund of India. Though it is not possible to estimate the precise expenditure but it is expected that a recurring expenditure of rupees one crore would be involved per annum.

No non recurring expenditure will be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the matter will relate to details only the delegation of legislative power i.e. of normal character.

X**BILL NO. XXXIII OF 1994***A Bill further to amend the Representation of the People Act, 1951.*

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1994.

Short title
and com-
mence-
ment.

(2) It shall be deemed to have come into force on the first day of January, 1990.

2. In section 3 of the Representation of the People Act, 1951 for the words “in that State or territory” the words “in the country” shall be substituted.

Amend-
ment of
section
3 of Act
43 of 1951.

STATEMENT OF OBJECTS AND REASONS

The Council of States, popularly alluded to as the House of Elders, is an important component of the bicameral Parliament of India. To ensure that it represents maturity, expertise and talent, the Constitution also provides for nomination, as its members, by the President, of twelve persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service. This provision in article 80 of the Constitution extends the role of Rajya Sabha much beyond that of just being the representative of the States in that narrow term.

Under the scheme of things for constitution of the Council of States, the basic requirement is that the elected members thereof are chosen by the members of the Legislative Assemblies of the States or the electoral colleges of the States and the Union territories, as the case may be. However, Section 3 of the Representation of the People Act, 1951 postulates that a person shall not be qualified to be chosen as representative of any State or the Union territory in the Council of States unless he is an elector in a parliamentary constituency in that State or territory. This provision restricts the right of the members of the Legislative Assembly or the electoral college to elect freely any person to represent their State or territory in the Council of States. It also runs counter to our efforts for national integration. It is felt that this restriction should be removed so that the members of the Legislative Assembly or electoral college have the freedom to elect any Indian they wish to be represented by in the Parliament. This step will also eliminate the present practice of important persons having to get themselves registered as electors in States other than their own in order to contest elections to the Council of States therefrom.

This Bill seeks to achieve this objective.

— VITHAL NARHAR GADGIL

XI

BILL NO. XXII OF 1994

A Bill to give members of the public the right to reply to allegations made against them or mis-reporting or mis-representation concerning them in the press and for matters connected therewith.

Be it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Reply in the Press Act, 1994.

Short title
and extent.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "medium newspaper" means a newspaper whose circulation according to the Registrar of newspapers in India is less than fifty thousand copies for each issue;

(b) "newspaper" means any printed periodical work containing public news or comments whether published daily, weekly or monthly;

(c) "Press Council of India" means the Press Council of India established under the Press Council Act, 1978;

(d) "small newspaper" means a newspaper whose circulation according to the Registrar of newspapers for India is less than twenty five thousand copies for each issue.

Right to reply in the Press.

3. Every person, including an organisation of persons or a company, firm or partnership, shall have the right to require the editor of a newspaper to print a reply to a factually inaccurate or distorted report involving that person when such report has been made in a newspaper for which that editor is responsible.

Publication of reply within the prescribed time.

4. The replies demanded under section 3 shall be printed by the newspaper within three days of their receipt in the case of a daily newspaper and in the next issue in the case of other newspapers.

Procedure for publication of reply.

5. The replies demanded under section 3 shall be printed free of cost by the concerned newspaper and shall be of equal length of the report replied to and shall be printed on the same page at the same position and in the same type as the report replied to.

Appointment of a Panel.

6. (1) The Press Council of India shall appoint a Panel of any three of its members under the Chairman of the Press Council of India to which demand for replies shall be referred if disputed by an editor.

(2) The Panel shall determine in each case of demand, within ten days of such reference, whether or not sufficient grounds exist for meeting a demand and shall inform those concerned accordingly.

(3) A finding by the panel that there were no sufficient grounds for making a demand shall be a complete defence to action under Section 7.

Punishment.

7. Subject to the provisions of section 6, any editor who fails to publish a reply within the prescribed time, shall be guilty of an offence punishable on conviction by a fine of not less than—

(a) rupees twenty five thousand in the case of small newspapers;

(b) rupees fifty thousand in the case of medium newspapers; and

(c) rupees one lakh in the case of other newspapers.

STATEMENT OF OBJECTS AND REASONS

The Indian Press is by and large a responsible Press. However, there is a section of the Press which indulges in mis-reporting and mis-representation. A person's reputation or business can be ruined by a single false newspaper report. Taking a legal action against persons responsible for such reports is an expensive and time consuming process. It is therefore, necessary to give a statutory right of reply to ensure that individuals can set the record straight. Similar laws are already on the Statute Books of some of the democratic countries such as France, West Germany, Canada, Denmark, etc. The Bill seeks to achieve this object.

VITHAL NARHAR GADGIL

XII

BILL No. XX OF 1994

A Bill to provide for the prevention of sexual harassment of women employees at their work places by their employers, superiors, colleagues or by any one connected with the work place and matters connected therewith.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short
title,
extent
and com-
mence-
ment.

1. (1) This Act may be called the Prevention of Sexual Harassment of Women Employees at their work Places Act, 1994.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Defini-
tions.

2. In this Act, unless the Context otherwise requires,—

(a) “appropriate Government” means in relation to the Centrally owned undertakings or departments, the Central Government and in relation to the other undertakings and departments, the State Government;

(b) "employer" means—

(i) in relation to an establishment which is under the control of the appropriate Government, a person or authority appointed by the appropriate Government for the supervision and control of employees; or where no person or authority is appointed the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed the Chief Executive Officer;

(iii) in any other case, the person who or the authority which, has the ultimate control over the affairs of establishment or house and where such affairs are entrusted to any other person whether called a Manager, Managing Director, Managing agent or by any other name, such person;

(c) "sexual harassment" includes any unwanted verbal or gestural sexual advances, sexually explicit and derogatory statements or remarks, avoidable physical contacts, touching or patting, suggestive remarks, sexually slanted and obscene jokes, comments about physical appearance, compromising invitations, use of pornographic material, demands for sexual favours, threats, innuendoes, physical assault and molestation of and towards women workers by their male superiors, colleagues or any one who for the time being is in a position to sexually harass the women workers;

(d) "Women" means and includes a women employed, whether directly or through any agency, for wages or for similar other considerations in any establishment, house or industry;

(e) "work place" means—

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an agricultural field;

(v) a hospital or nursing home;

(vi) a shop or business establishment;

(vii) a brick kiln;

(viii) a construction site;

(ix) any banking establishment;

(x) any Government, semi Government establishment or department including telegraph office, post office, telephone exchange etc;

(xi) any private office or house;

(xii) any school, college, university or like institution;

(xiii) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(xiv) any other such place where a women is employed for any work whatsoever.

Punish-
ment for
sexual
harass-
ment of
a women.

Burden
of proof.

Joint
respon-
sibility
of the
employer
in the
offence
of sexual
harass-
ment at
a work
place.

Pleading
the case
of harass-
ed woman
worker.

Trial to
be held
in
camera.

3. Notwithstanding anything contained in the Indian Penal Code or any other law for the time being in force whoever sexually harasses a woman at a work place shall be punished with simple imprisonment for a term which may extend to five years or with fine which may extend to twenty thousand rupees or with both.

4. Notwithstanding anything contained in any other law for the time being in force the onus of proving the innocence shall be on the accused and the sexually harassed woman shall have the right to lead evidence in rebuttal.

5. Notwithstanding anything contained in any other law for the time being in force if an act of sexual harassment is committed at a work-place the supervisor, manager and managing director shall have the joint responsibility towards the commission of sexual harassment in the organisation and section 34 of the Indian Penal Code shall be made, applicable in their case:

Provided that if the harassed woman absolves the supervisor, manager or managing director no action shall be taken against them under this Act.

6. Notwithstanding anything contained in any other law for the time being in force the case of a sexually harassed woman at a work place shall be pleaded either by herself or with her consent by women's organisation or the trade union of which she is a member.

7. The trial of an offence committed under this Act shall be held in camera if the harassed women so desires.

STATEMENT OF OBJECTS AND REASONS

Women are nearly fifty per cent of the population of India. In almost every field of economic activity women form a large part of the work force. The number of working women is increasing everyday. At the work place women are compelled to work in the most disadvantageous service conditions. They are harassed sexually at the work place by their male colleagues, bosses, employers and others. Cases of sexual harassment of women at the work places occur but more often these are not reported for fear of social ostracism, family pressure or reprisal in the form of threats and discriminatory treatment. Though this offence like physical assault and molestation has been made punishable under the Indian Penal Code, yet working women feel insecure since all aspects of sexual harassment are not covered by that Code. Accordingly an urgent need is felt to deal with the situation more stringently. The Bill will therefore take care of the offences related to sexual harassment of women at the work place.

Hence this Bill.

KAMLA SINHA

XIII

BILL No. XIX OF 1994

A Bill to provide for the protection of the homebased workers in the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short title,
extent
and
comm-
ence-
ment.

1. (1) This Act may be called the Homebased workers (Protection) Act, 1994.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the State Government and in other cases the Central Government;

(b) "Board" means the National Tripartite Board established under section 3 of this Act;

(c) "contractor" means any person who either as an independent contractor or agent of a contractor or sub-contractor who contracts or engages any homebased worker either for himself or for somebody else to produce a given product for an establishment or a person;

(d) "employer" means the person who has the ultimate control over the affairs of the establishment and who is the principal employer of such establishment;

(e) "establishment" means any place or premises, including precincts thereof in which any small scale industry, trade business or manufacture is being, or is ordinarily, carried on;

(f) "homebased worker" means any person employed in connection with the work of any establishment who produces a given product at the place of his residence;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "wages" means all remunerations payable to a homebased worker in respect of the work done by him.

3. (1) The Central Government shall establish a National Tripartite Board which shall consist of the representatives of the appropriate Government, the representatives of the employers including the contractors and the representatives of the homebased workers:

Establish-
ment of
National
Tripartite
Board.

Provided that the representatives of the homebased workers shall be nominated by their national trade Union Centres.

(2) The Board shall formulate national policy in regard to the homebased workers and suggest ways and means for protection of their rights.

Duties
of the
Board.

4. (1) The Board shall entertain complaints of the homebased workers in respect of their conditions of work or service or their welfare benefits under this Act.

(2) It shall exercise such powers as may be prescribed from time to time.

Chief
Commis-
sioner
for home
based
workers.

5. (1) The Central Government shall, by notification in the Official Gazette, appoint a Chief Commissioner for homebased workers.

(2) The appropriate Government shall by notification in the Official Gazette, appoint Assistant Commissioner for homebased workers for a State or the Union Territory as and when necessary to do so;

(3) The Chief Commissioner and Assistant Commissioner appointed under this Act shall be deemed to be public servants.

(4) The Chief Commissioner and Assistant Commissioners of homebased workers shall exercise such powers and functions as may be prescribed from time to time.

Functions
of the
Chief
Commis-
sioner and
Assistant
Commis-
sioner.

Punish-
ment for
unregis-
tered
employer
and
prohibi-
tion of
employing
unregis-
tered
home-
based
worker.

Minimum
wages
for
home-
based
workers.

Pension-
cum-Pro-
vident
Fund
Scheme.

Compen-
sation for
death
while
working.

6. Every Commissioner for homebased workers appointed under this Act shall,—

- (a) maintain a block and districtwise register of homebased workers with such particulars and in such manner as may be prescribed;
- (b) maintain a block and districtwise register of employers employing homebased workers;
- (c) issue identity card to every homebased worker;
- (d) make a survey of homebased workers from time to time.

7. (1) No employer, unless he has registered himself with the appropriate Government shall engage any homebased worker.

(2) If an unregistered employer engages any homebased worker he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

(3) No employer shall engage any homebased worker who has not registered himself with the Chief Commissioner or Assistant Commissioner for homebased workers.

8. (1) Every employer shall pay to a homebased worker minimum wages as may be fixed by the Board from time to time.

(2) The minimum wages if fixed on a piece rate basis, shall not be less than the wages fixed on time basis.

(3) The time taken by a homebased worker for coming to employer or contractor for raw material and depositing the finished product shall also be taken into account in calculation of wages.

9. The appropriate Government shall formulate a mutual pension-cum-provident Fund Scheme for the homebased workers which shall be implemented by the Chief Commissioner for homebased workers.

10. If any homebased worker dies while working, his dependents shall be paid compensation as may be prescribed, by the appropriate Government out of the scheme created under Section 9 depending upon the age and length of service of the deceased:

Provided that the compensation shall not be less than ten thousand rupees.

Power to
make
rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this **Act**.

(2) In particular and without prejudice to the generality of the foregoing powers, the rules may provide for the—

- (a) terms and conditions of service of the homebased workers;
- (b) maternity benefits for the female homebased workers;
- (c) health insurance cards for homebased workers;
- (d) creches for the children of homebased workers;
- (e) payment of layoff wages by the employer if he is unable to give work to the homebased worker on account of bad weather, shortage of raw material and such other circumstances.

STATEMENT OF OBJECTS AND REASONS

The number of homebased workers in the country is increasing. They are not protected by labour-laws and do not enjoy the benefits of welfare legislation. Whether piece-rated or time-rated, this makes such workers vulnerable to the whims of employers. Often, the work is done through contractors, and it becomes impossible to identify the principal employer. Quite often, the nature of their labour is disguised in the form of a sale purchase agreement.

This Bill seeks to ensure the regularity and continuity of employment for homebased workers and to protect their rights, wages, and working conditions, and provide welfare benefits.

Hence this Bill.

KAMLA SINHA

FINANCIAL MEMORANDUM

Clause 3 provides for the establishment of a National Tripartite Board. Clause 5 provides for the appointment of Chief Commissioner and Assistant Commissioners. Clause 9 provides for the Pension-cum-Provident Fund Scheme. The Bill, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees Fifty Crores per annum will be involved as recurring expenditure.

A non recurring expenditure of rupees Twenty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 provides for the rule making power of the Central Government for carrying out the purposes of this Bill. The rules will relate to the matters of details only. The delegation of legislative power is of normal character.

XIV.

Bill No. XXV of 1994

A Bill to protect the rights of a married woman and for matters connected therewith.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Married Women (Protection of Rights) Act, 1994. Short title.
2. In this Act unless the context otherwise requires—
 - (a) 'appropriate government', means the Central or the State Government under whose employment the husband of the widow was at the time of his death;
 - (b) 'prescribed' means prescribed by rules made under this Act;
 - (c) 'property' means movable and immovable property whether ancestral or not, or whether acquired jointly with other members of the family or by way of accession to any ancestral property of the husband of a married woman, and includes deposits of the husband in provident fund, banks, shares, any public saving schemes, ornaments, land and houseDefinitions.

Right
of a
married
woman

3. A married woman shall be entitled to the following rights, namely:—

(1) she shall have a right to live in the house of her husband whether owned by him or by his joint family without seeking judicial separation or divorce from her husband;

(2) she shall without seeking judicial separation be entitled to have food, clothing and other facilities and maintenance and support for herself from her husband;

(3) she shall be entitled to have an equal share in the property of her husband from the date of her marriage and shall also be entitled to dispose of her share in the property by way of sale, gift, mortgage, will or in any other manner whatsoever;

(4) she shall have a right of free access till her life to the children born out of the wedlock if they remain in the custody of her husband irrespective of the dissolution of marriage;

(5) she shall have an option to bring up the children separately, have their custody, maintenance and education consistently by remaining in the family of her husband;

(6) she shall be consulted by her husband in matters of family business and other financial transactions made out of the property of her husband or of the joint family.

Rights
of a
widow,

4. A widow shall be entitled to the following rights, namely:—

(1) she shall, if eligible, be entitled to get suitable employment in the event of the death of her husband who happened to be an employee in given Department;

(2) she shall be entitled to pension at such rates and on such conditions as the appropriate Government may prescribe;

(2) Any transaction or business entered into in violation of sub-section (6) of section 3 shall be null and void.

Enforce-
ability of
rights

5. (1) The rights conferred by this Act shall be enforceable in a court of law or in a Lok Adalat.

(2) Any transaction or business entered into in violation of sub-section (6) of section 3 shall be null and void.

Act to
have
over-
riding
effect

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court, Tribunal or other authority.

Power
to make
rules

7. The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In the wake of independence Indian woman has not only been able to recognise her status but has also made man recognise it. Nevertheless, the status of a woman is still far from being dignified and safe in the Indian society. Although we are going to cross over to the 21st century from the 20th century, our attitude towards women is still that of the middle-aged feudal lords. Even to-day we are not prepared to grant the same liberty to women which men themselves are enjoying dauntlessly.

To day the real cause of the exploitation of a woman by her husband is that she has got no right in the house of her husband; she has got no right on the property of the husband. Even our laws confer the right of property on a woman only after the death of her husband and not during her coverture.

If a woman's right in the property of her husband is recognised the moment she marries, she will start feeling secure and will overcome her sense of helplessness and economic insecurity. This will minimise if not eliminate to a great extent the cases of separation and divorce whose basic reason is economic in many cases. What she will get on divorce, society should grant her during the subsistence of marriage. It is the most glaring injustice and indignity to woman that while she is a partner of the husband, the latter does not even think it necessary to inform her about his financial and family transactions leave alone consultation with her.

This Bill seeks to achieve the above objectives by granting women certain rights.

MEMO FORM 1

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules to give effect to the provisions of this Bill. The delegation of Legislative Power is of a normal character.

XV

BILL NO. XXIX OF 1994

A Bill to constitute a National Commission for protecting rights and interests of children and to provide for matters connected therewith and incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

CHAPTER- I

PRELIMINARY

1. (1) This Act may be called the National Commission for Children Act, 1994.

Short title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act unless the context otherwise requires,—

(a) "Chairperson" means the Chairperson of the Commission constituted under this Act;

Defini-
tions.

- (b) "Child" means a person male or female below eighteen years of age;
- (c) "Commission" means the National Commission for Children, constituted under section 3;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "Vice-Chairperson" means the Vice-Chairperson of the Commission Constituted under this Act.

CHAPTER-II

THE NATIONAL COMMISSION FOR CHILDREN

Constitution of
National
Commission
for
children,

3. (1) The Central Government shall by notification in the Official Gazette, constitute a body to be known as the National Commission for Children, to exercise the powers conferred on and to perform the functions assigned to it, under this Act.

- (2) The Commission shall consist of—
- (a) a Chairperson
 - (b) a Vice-chairperson
 - (c) five Members

to be nominated from amongst persons of eminence connected with socio-economic development and welfare of children including representatives of voluntary philanthropic welfare organisations by the Central Government:

Provided that at least two of these Members shall be women.

Term of
office
and
conditions
of service
of Chair
person,
Vice-Chair
person
and
Members.

4. (1) The Chairperson, Vice-Chairperson and every Member shall hold office for such period not exceeding three years as may be specified by Central Government in this behalf.

(2) The Chairperson, Vice-Chairperson or a Member may, by notice in writing, addressed to the Central Government resign from his office at any time.

(3) The Central Government shall remove a person from the office of Chairperson, Vice-Chairperson or a Member if he—

- (a) becomes an undischarged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;
- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or
- (f) in the opinion of the Central Government has so abused the position of Chairperson, Vice-Chairperson or Member as to render that person's continuance in office detrimental to the public interest;

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy under sub-section (2) or sub-section (3) or otherwise shall be filled by fresh nomination and a person so nominated shall hold, office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy has not arisen.

(5) The salaries and allowances payable to and other terms and conditions of service of the Chairperson, Vice-Chairperson and Members shall be such as may be prescribed.

5. (1) The Central Government shall provide the Commission with such officer and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salary and allowances payable to, and other terms and conditions of service of, the officers and the employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. No act or proceeding of the Commission shall be called in law question or be invalid on the ground merely of the existence of any vacancy or defect in the Constitution of the Commission.

Officers
and
other
employ-
ees of
the
Commis-
sion.
Vacancy,
etc. not
to invali-
date the
proce-
dings.

7. (1) The Commission may appoint such committees as may be necessary for dealing with such a special issues as may be taken up by the Commission from time to time.

(2) The Commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons who are not Members of the Commission, as it may be think fit and the persons so co-opted shall have the right to attend the meetings of the Committee and take part in its proceedings but shall not have the right to vote.

(3) The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the Committee as may be prescribed.

Commit-
tees of
the
Commis-
sion.

8. (1) The Commission (or a committee thereof) shall meet as and when necessary at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Chairperson or any other officer of the Commission duly authorised by the Chairperson in this behalf.

Proce-
dure to
be regu-
lated
by the
Commis-
sion.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

9. (1) The Commission shall perform all or any of the following functions, namely:—

(a) investigate and examine all matters relating to the safeguards provided for children under the Constitution and other laws;

Functions
and
Powers
of the
Commis-
sion.

- (b) present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the implementation of those safeguards;
- (c) make recommendations in the reports for the effective implementation of those safeguards for improving the conditions of children by the Union or any State;
- (d) review, from time to time, the existing provisions of the Constitution and other laws affecting children and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;
- (e) take up the cases of violation of the provisions of the Constitution and of other laws relating to the safeguards provided for children with the appropriate authorities;
- (f) look into complaints and take *suo moto* notice of matters relating to—
(i) deprivation of children's rights and discrimination against the girl child;
(ii) non-implementation of laws enacted to provide protection to children and also to achieve the objective of equality and development;
(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to children and take up the issues arising out of such matters with appropriate authorities;
- (g) call for special studies or investigations into specific problems or situations arising out of exploitation and atrocities against children and identify the constraints so as to recommend strategies for their removal;
- (h) prepare plans and programmes for educational and general development of children, issue directions for implementation thereof, and monitor and evaluate the progress of the development of children under the plans of the Union or any State;
- (i) inspect or cause to be inspected a jail, children home, remand home and other institutions or other place of custody where children are kept as prisoners or otherwise, and take up with the concerned authorities for the remedial action, if found necessary;
- (j) provide funds for litigations involving issue concerning a large body of children;
- (k) make periodical reports to the Central Government on any matter pertaining to children and in particular various difficulties under which the deprived children toil;
- (l) recommend to the Central Government specific programmes of action towards elimination of exploitation of child workers and proper development of their personality including their education and training;

(m) suggest plans for abolition of begging by children in various forms and development of the personality of such children and their education and training;

(n) suggest programmes for rehabilitation of delinquent children;

(o) study and suggest improvements in the maintenance and functioning of children homes, remand homes, reformatories schools and other institutions set up under the Juvenile Justice Act, 1986;

(p) evolve effective steps including provisions of deterrent punishment to eliminate exploitation of girl child, including child rape;

(q) lay down programmes for abolition of bonded child labour, including identification and rehabilitation of such children;

(r) regulate adoption of destitute children including expatriation of such children by foreign foster parents;

(s) evolve programmes for effectively preventing child abuse, in general;

(t) regulate orphanages and other such philanthropic institutions engaged with the welfare of destitute and indigent children;

(u) investigate specific grievances and take notice of matter relating to non implementation or violation of directions;

(v) take cognizance of cases of child marriages in violation of Child Marriages Restraint Act, 1929;

(w) make periodical reports to Central and State Governments, in general;

(x) any other matter referred to it by Central Government.

(2) The Central Government shall cause all the reports referred to in clause (b) of sub-section (1) to be laid before each House of Parliament alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy thereof to such State Government who shall cause it to be laid before the Legislature of the State alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(4) The Commission shall, while investigating into any matter referred to in clause (a) or sub-clause (1) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

CHAPTER IV

FINANCE ACCOUNTS AND AUDIT

Grants by the Central Government.

10. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

(2) The Commission may spend such sums as it think fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Accounts and Audit.

11. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

Annual Reports

12. The Commission shall prepare in such form and at such time for each financial year as may be prescribed, its annual Report of previous financial year and forward a copy thereof to the Central Government.

Annual Report and Audit Report to be laid before Parliament.

13. (1) The Central Government shall cause the annual report to be laid before each House of Parliament alongwith the memorandum explaining the action taken or proposed to be taken on the recommendations contained therein in so far as they relate to the Central Government and the reasons for the non-acceptance, if any, of any such recommendations

(2) Where the said report or any part thereof relates to any matter with which a State Government is concerned, a copy thereof shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, or any, or such recommendations.

CHAPTER V

MISCELLANEOUS

14. The Chairperson, Vice-Chairperson, Members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Chair-
per-
son,
Vice-
Chair-
per-
son,
mem-
ber
and
staff of
the Com-
mission
to be
public
servants.

45 of 1960.

15. The Central Government shall consult the Commission on all major policy matters affecting the children.

Central
Govern-
ment to
consult
Commis-
sion.

16. The Commission may, by general or special order, delegate to the Chairperson, Vice-Chairperson, or any Member or to any officer of the Commission subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

Dele-
ga-
tion of
Powers.

17. No suit, prosecution or other legal proceedings shall lie against the Central Government, Commission, Chairperson, Vice-Chairperson, Members or any officer or other employee of the Commission for anything which is done in good faith or intended to be done under this Act.

Protec-
tion of
action
taken
in good
faith.

18. (1) The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Power
to make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) salary and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson and Members under sub-section (5) of section 4 and of officers and other employees of the Commission under sub-section (2) of section 5;

(b) the form in, and the time at, which the annual report shall be prepared under section 11;

(c) any other matter which is required to be or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in Session for a total period of thirty days which may be comprised in one Session or in two or more successive sessions, and if, before the expiry of the Session immediately following the Session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Various provisions of the Constitution of India, such as Articles 24, 41 and 45 and numerous laws enacted so far by the Parliament and State Legislatures, have failed to protect the child against exploitation and abuse. Headlines in newspapers and magazines cry hoarse about the apathy and indifference of the society to child abuse. An article captioned "Sad, whispering world of the abused child" in the Pioneer of November 17, 1993 gives revealing account of the child abuse that continues unabated.

Child labour including the bonded child labour continues to be exploited. Children who deserve toys have to handle tools and material, as hazardous as hot molten glass and articles that go into the making of fire-works and matches, obviously in blatant violation of the provisions of Article 24. Eyes of the world over, are fixed on the child labour exploitation in glass factories in Ferozabad, match sticks and fire-works factories of Sivakasi and carpet industry of Mirzapur, Badhoi and Varanasi.

Again in brazen violation of article 23 of the Constitution bonded and other children continue to be exploited, abused and even subjected to trafficking. Numerous children are sent abroad by various means both legal and illegal and are subjected to exploitation and abuse for mere amusement and entertainment. Many children find themselves in bondage even before they see the light of the day, and are subjected to exploitation born to bonded parents. The girls child amongst this neglected and bonded lot finds itself in more vulnerable position, being open to various forms of exploitation including child-rape.

It is, therefore, necessary to create a National Commission to identify and take cognizance of this rampant exploitation and abuse of the children and provide for effective safe-guards to give effect to the provisions of the Constitution and to evolve programmes and schemes for enforcing the same. The need for providing a central agency to study, evaluate and monitor the functioning of the numerous public and private organisations in the field, protecting and safe-guarding the rights and interests of the children and promoting the welfare of these children cannot be overemphasized.

The Bill seeks to achieve the above mentioned objectives.

VEENA VERMA

FINANCIAL MEMORANDUM

Clause 3 of the Bill proposes to establish a National Commission for children consisting of a Chairperson, Vice-Chairperson and Members. Under Clause 4 the salary, allowances and other terms and conditions of service of the Chairperson, Vice-Chairperson and members are to be prescribed by the Central Government by rules. The Central Government has, in terms of clause 5 of the Bill, to provide the Commission with adequate staff. The salary, allowances and other terms and conditions of the officers and employees provided to the Commission are to be prescribed by the Central Government by rules under clause 5.

Clause 10 contemplates payments to the commission by way of grants for being utilized for the purposes of this Act.

The total recurring expenditure on account of salaries, allowances and establishment of the Commission would be approximately three crores per annum besides a non-recurring expenditure of around rupees one crore for carrying out for the purposes of the Commission.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters in respect of which such rules may be made are specified in sub-clause (2) of the said clause. They relate to salaries, allowances and other terms and conditions of services of the Chairperson, Vice-Chairperson, Members, officers and other employees of the Commission and the form in which and time and place at which the annual report shall be prepared. The matters with respect of which rules may be made are matter of procedure or detail.

The delegation of the legislative powers is, therefore, of a normal character.

XVI

BILL No. XXVI OF 1994

A Bill to provide for the reservation of posts for women in Government Services for improving their lot in the society by making them financially independent and for matters connected therewith.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Reservation of Posts for Women in Government Services Act, 1994.

Short title,
extent
and
com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "appropriate Government" means in the case of a State, the Government of that State, and in all other cases the Central Government;

(b) "Government service" means the service in connection with the affairs of the Union or of any State and includes the service of the public sector undertaking and local body.

Reserva-
tion of
posts in
Govern-
ment
services.

3. The appropriate Government shall reserve thirty percent of posts in Government services for women.

Provi-
sions of
the Act
not to
apply to
certain
Govern-
ment
services.

4. The provisions of this Act shall not apply to such Government services as Parliament may by law, from time to time, provide.

Savings.

5. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make
rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Our Constitution guarantees equality for both men and women but it is a hard fact of our society that women are not considered equal to men. As a result women as a class are still socially neglected, economically weaker and educationally backward. In the field of employment in the country the number of employed and working women has been declining very fast inspite of increasing population of women and expansion of literacy in the country. The rate of unemployment among women is going up. In the industrial sector there was a decline of 2.37 percent between 1971—1981. Their number is continuously declining in Public Sector Undertakings. This is so because our society is traditional and conservative. Our society feels proud in keeping the women behind the four walls of home even if they have obtained graduate, post graduate and professional degrees after competing with men and spending huge amounts of money on their studies. Even today an average parent thinks that an able daughter must be deft in domestic and household chores. Thus the society wants to close the doors of progress to women by keeping them unemployed.

Moreover, in this age of machinisation, industrialisation and scientific technology women are not trained to work in that direction resulting in unemployment of women in comparison to men in these fields. As a result women's participation in the total employment opportunities has gone down to only four percent.

In such a situation if the Government and society intend to bring about social and economic parity between men and women it will have to encourage women to become self dependent by providing at least 30 percent reservation in all Government jobs for them so that they also come on par with men in the society and also link them with the development and economic progress of the country.

Hence this Bill.

VEENA VERMA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V. S. RAMA DEVI,
Secretary-General.

Published by the Secretary-General, Rajya Sabha Under rule 68 of the Rules of Procedure and Conduct of Business in the Rajya Sabha.